



Congress Responds to the Terrorist Attacks

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NOTE: The RSC will update this document as the House considers additional legislation in response to the terrorist attacks of September 11th.

- **Aviation Security.** The President signed into law a bill aimed at improving the security of the nation's air transportation system. The major provisions are as follows:
 - Creates the Transportation Security Administration (TSA) within the Department of Transportation and puts the head of the TSA, the Under Secretary of Transportation Security, in charge of directing and coordinating aviation security and the standards for such security nationwide
 - Requires that baggage screeners be federal employees within one year and remain that way for two years
 - Allows airports to opt-out of the federal system after three years and use baggage screeners of their choosing (including private contractors), subject to federal supervision
 - Provides for a five-airport test program for the use of private screening firms
 - Permits federal baggage screeners to join unions but NOT to strike
 - Requires that screeners be U.S. citizens who are proficient in English
 - Requires on-site federal supervision of passenger and baggage screening
 - Provides for the establishment of airport perimeter security measures (including a 20-airport test program)
 - Directs the Under Secretary to provide law enforcement officers at every existing airport checkpoint
 - Prohibits cockpit access by any person other than a flight deck crew member and authorizes grants to reinforce cockpit doors.
 - Authorizes, after a study, the Under Secretary to permit flight deck crews to carry less-than-lethal weapons
 - Permits a pilot to carry a firearm into a cockpit if the Under Secretary approves, the air carrier approves, and the pilot has received proper training
 - Provides for the deployment of federal marshals on selected domestic commercial air passenger flights and all international flights on U.S. carriers into or out of the U.S.
 - Authorizes grants to provide video monitors in planes and ensure the use of transponders in emergencies
 - Requires the full implementation by January 19, 2002, of a system at all airports to screen all checked baggage
 - Requires background checks for current employees with unescorted access to aircraft or secured areas
 - Creates a database for cross-checking of passenger lists with federal lists of suspected national security risks and requires airlines to provide passenger and crew lists to the Customs Service for each flight
 - Requires notice to the Attorney General of heavy-plane flight-training applicants who are

- aliens or otherwise designated by the Under Secretary of Transportation Security
- Authorizes the training of flight crews in anti-hijacking procedures
- Exempts airline employees from liability for reporting suspicious activities regarding a “reasonably believed” threat
- Requires air carriers to honor passenger tickets of other carriers that file for bankruptcy
- Caps passenger fees for new security costs at \$5.00 per one-way trip (\$2.50 per enplanement)
- Authorizes the Department of Transportation to reimburse airports for costs up to \$1.5 billion in fiscal year 2002 associated with new security measures
- Authorizes \$500 million for grants to improve aircraft security and \$50 million a year for four years to develop aviation security technology.

(S. 1447)

- **Expansion of Anti-Terrorism Powers.** The President signed into law an anti-terrorism package, popularly known as the USA PATRIOT (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) Act. The Act included the following *major* provisions:
 - Expands the definition of and increases the penalties for various aspects of terrorism.
 - Establishes a new crime for harboring terrorists.
 - Permits prosecutors and investigators to go to the judge in the district overseeing an investigation to issue a warrant for *electronic* evidence and, in the case of search warrants for terrorism offenses, in *any* district in which activities related to terrorism occurred (as opposed to the current requirement that they go to the judicial district in which the property to be searched is located).
 - Permits the delay of the notice of execution of a warrant under certain circumstances.
 - Clarifies that trap-and-trace authority applies to internet and e-mail communications while continuing to prohibit the capturing of content.
 - Allows courts to authorize roving taps of any phones that the target may use.
 - Broadens the authorities for gathering foreign intelligence.
 - Permits officials to provide criminal information (including grand jury information) to the intelligence community when it is “foreign intelligence information.” Provides for after-the-fact judicial notice of the sharing of grand jury information with other government officials.
 - Permits investigators to gain access to education records of aliens in the U.S. under certain circumstances if the investigation involves an act of terrorism. Expands the Foreign Student VISA Monitoring Program.
 - Permits detention for up to 7 days and then requires the commencement of proceedings related to removal or criminal prosecution. Permits an additional detention for up to 6 months if the removal of the alien cannot be accomplished (i.e. no country will accept the alien).
 - Provides for access by the Department of State and INS to Justice Department records of VISA applicants.
 - Triples the number of INS and of Customs Service personnel on the border with Canada and provides \$100 million for technology improvements for monitoring this border.
 - Authorizes a \$150-million expansion of the regional information-sharing system to facilitate federal-state-local law enforcement response to terrorist attacks.
 - Authorizes the Attorney General and the Secretary of State to pay rewards to combat terrorism.

--Most of the provisions altering Foreign Intelligence Surveillance Act (FISA) authority, wire taps, etc. are sunset on December 31, 2005.

Money Laundering Provisions of USA PATRIOT (divided into four sections based on for what or whom each provision is intended: 1) individuals, 2) foreign countries and immigration, 3) financial institutions, and 4) other):

Individuals

- Makes it illegal to smuggle more than \$10,000 into or out of the U.S. and to provide false information to a financial institution regarding the identity of a customer
- Makes it easier to prosecute an individual for operating an unlicensed money transmitting business
- Expands the list of unlawful activities that are predicates for money laundering prosecutions to include terrorism, among other offenses
- Establishes the authority to order convicted criminals to return property located abroad and provides for the forfeiture of substitute property when the defendant has either by act or omission prevented the court from seizing property

Foreign Countries & Immigration

- Establishes U.S. jurisdiction over foreign money launderers and institutions
- Gives the Secretary of the Treasury discretionary authority to impose several new special measures (such as additional reporting requirements) against foreign jurisdictions, financial institutions operating outside the United States, and international transactions that are determined to be of primary money laundering concern
- Provides for the exclusion from entrance into the U.S. of aliens who are believed to be involved or related to individuals (spouse, son, or daughter) involved in money laundering

Financial Institutions

- Permits the imposition of penalties for financial institutions that fail to comply with reporting orders issued by the Secretary of the Treasury under the current Geographic Targeting Orders authority
- Establishes standing to seize funds in a U.S. account when criminal proceeds are deposited into the corresponding account of foreign banks held overseas
- Authorizes the Secretary of the Treasury to establish standards for financial institutions regarding the identification and verification of account-holders
- Requires the issuance of regulations for the reporting of suspicious activity by registered brokers and dealers of securities and commodities.
- Provides civil liability immunity for financial institutions that disclose possible violations of law or regulation and expressly prohibits such institutions from notifying any individual involved in the transaction that they are reporting to the government as a possible violation of law or regulation
- Establishes standards for due diligence for accounts corresponding to accounts overseas and for private banking accounts
- Prohibits the establishment in the U.S. of a corresponding account for an account held by a bank without a physical presence in any country
- Requires financial institutions to establish anti-money-laundering programs that include internal policies, designation of an officer responsible for compliance, employee training, and independent audits

Other

- Provides statutory authorization for the Financial Crimes Enforcement Network established over ten years ago by an order of the Treasury Secretary
- Creates a public-private task force on terrorist financing issues
- Updates counterfeiting statutes to include analog, digital, and electronic images and

increases penalties from 15 to 20 years

(H.R. 3162)

- **Terrorism Reinsurance.** The House passed a bill to ensure the continued financial abilities of insurers to provide terrorism insurance. The major provisions of the bill are as follows:
 - Directs the Secretary of the Treasury to provide up to \$100 billion in financial assistance to commercial property and casualty insurers for losses incurred as a result of terrorist acts committed after enactment of the bill and prior to January 1, 2003 (subject to two-year extension)
 - Authorizes the Secretary to provide such assistance only after insured losses related to terrorism exceed \$1 billion for the entire industry (or \$100 million if individual insurance companies are particularly affected)
 - After the appropriate threshold is met and companies absorb a \$5 million deductible per company per terrorist event, the Secretary would pay insurance companies 90% of subsequent covered losses.
 - Authorizes the Secretary to recoup this assistance provided by assessing charges on the insurance industry and its customers (up to \$20 billion total—up to \$5 billion in year one and if applicable up to \$10 billion per year in years two and three)
 - Directs the Secretary to impose a surcharge on policy-holders' premiums for commercial property and casualty insurance when total assistance exceeds \$20 billion
 - Subjects insurers who fail to pay assessed amounts or who submit false data regarding their repayment would be subject to civil penalties
 - Preempts state law in most cases

LIABILITY PROVISIONS:

- Creates an exclusive federal cause of action triggered for lawsuits relating to acts of terrorism
- Prohibits punitive damages
- Allows noneconomic damages (as long as plaintiff was physically harmed)
- Reduces funds awarded to a plaintiff by the amount of any collateral source compensation
- Caps attorney's fees at 20% of the awarded damages or settlement amount, with a penalty (fine and imprisonment) for any attorneys charging or receiving higher amounts

(H.R. 3210)

- **Bioterrorism Enforcement.** The House passed a bill to enhance the enforcement of and increase the penalties for unsafe and illegal possession or transfer of biological agents and toxins. The bill also requires the Department of Health and Human Services to promulgate new regulations governing the possession, use, and transfer of biological agents and toxins. Violators of such regulations would be subject to increased civil penalties. (H.R. 3160)
- **Airline Assistance and Victim Compensation.** The President signed into law a bill providing aid and loans to the airline industry and compensation for families directly victimized by the attacks. Major provisions of the bill include:
 - Airline Compensation:
 1. \$5 billion in direct compensation for losses sustained during the ground-stop order and incremental losses through December 31, 2001.
 2. \$10 billion in guaranteed loans (to airlines agreeing not to increase for two years the salaries of executives paid more than \$300,000 a year) provided by a Board

consisting of the Secretary of the Treasury, Secretary of Transportation, and the Chairman of the Federal Reserve.

3. The Secretary of Transportation is authorized to require any air carrier receiving compensation to maintain air service to any point served by that carrier prior to the attacks.

--Aviation Insurance:

1. Authorizes for 6 months the Secretary of Transportation to reimburse from a revolving fund an air carrier (and vendors or subcontractors of air carriers) for the increased cost of insurance (compared to September 4 through 10).
2. Authorizes the Secretary for the next 6 months to cap the liability of an air carrier (and vendors or subcontractors of air carriers) for losses suffered by a third party resulting from a future terrorist act at \$100 million. The federal government would be responsible for any liability above that amount, and punitive damages would be prohibited.

--Tax Provisions:

Extends the due date for excise tax deposits due between September 10th and November 15th to November 15th and authorizes the Secretary of Treasury to further extend the deadline to January 15, 2002.

--Victim Compensation:

1. Claimants may elect to file either a claim with a “special master” (appointed by the Attorney General) or a civil action against an air carrier.
2. If the claimant files a claim with the “special master,” the claimant is entitled to economic (lost wages, medical expenses, loss due to death, etc) and non-economic (pain and suffering, etc) damages in an amount to be determined by the “special master.” The “special master” will then provide federal compensation to the claimant in an amount equal to the difference between the total amount due the claimant and the amount of money the claimant is entitled to receive from collateral sources (life insurance, pension funds, death benefit programs, and payments by federal, state or local governments).
3. Punitive damages are not available under a “special master” claim.
4. If the claimant chooses to file a civil action against an air carrier, the claim must be filed in the U.S. Federal Court for the Southern District of New York, and the liability for all claims against a carrier (whether for compensation or punitive damages) is limited to the amount of liability coverage maintained by the air carrier.

--Air Safety:

Affirms the Presidents decision to spend \$3 billion (out of the \$40 billion emergency supplemental explained below) for airline safety and security.

(H.R. 2926; S. 1450)

- **Use of Force.** The President signed into law a resolution authorizing the President to use “all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on Sept. 11, 2001, or harbored such organizations or persons.” (S.J.Res. 23; H.J.Res. 64)
- **\$40 Billion Supplemental Appropriations Package.** The President signed into law a supplemental appropriations bill distributing \$40 billion for relief in the wake of the terrorist attacks as follows:

--\$10 billion immediately available for the following five purposes:

1. providing federal, state and local preparedness for mitigating and responding to the attacks
2. providing support to counter, investigate, or prosecute domestic or international terrorism
3. providing increased transit security
4. repairing public facilities and transit systems damaged by the explosions
5. supporting national security

--\$10 billion available 15 days after the Office of Management and Budget (OMB) informs Congress how the money will be spent

--\$20 billion set aside pending further legislative action from Congress

The bill also contains a requirement that at least \$20 billion of the \$40 billion be spent on "disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania."

(H.R. 2888)

- **Expedited Payments to Law Enforcement.** The President signed into law a bill expediting payment of benefits under the Public Safety Officer Benefit program to the public safety officers who were killed or suffered a catastrophic injury in the line of duty in connection with the terrorist attacks of September 11. Payment to the officer or the officer's family will be sent no later than 30 days after a determination of eligibility. (H.R. 2882)
- **War Bonds.** The House passed a bill authorizing the Secretary of the Treasury to issue "Freedom Bonds" in support of the response and recovery efforts in the September 11th aftermath. (H.R. 2899)
- **Victims Tax Relief.** The House passed a bill providing the following tax relief for victims of the terrorist attacks:
 1. Estate tax reduction of more than 50% for individuals who were killed in the September 11th terrorist attack or who die as a result of injuries suffered from that attack.
 2. Exemption from federal income tax in the year of death for individuals who died in the September 11th terrorist attack or who die from injuries suffered as a result of that attack.
 3. Exemption from federal income tax for any per-passenger payments made by United Airlines and American Airlines to victims' families.
 4. Exemption from federal income tax for FEMA assistance payments. (H.R. 2884)
- **Allowing Entrance of Non-Citizen Informants.** The President signed into law a bill to give the INS *permanent* authorization to grant the admission of "S" visa non-immigrants into the United States. "S" visa non-immigrants are aliens who are admitted into this country solely for the purpose of assisting law enforcement as informants in criminal cases. Such aliens are granted entrance into the U.S. in exchange for their information and can become permanent residents after certain conditions are met. The INS' authority is only *temporary* in current law; this bill would make the authority permanent. (S.1424)
- **Condemning the Attack.** The President signed into law a resolution:
 1. commending the heroic actions of the rescue workers, volunteers, and state and local officials

2. declaring that the United States is entitled to respond under international law
 3. thanking those foreign leaders and individuals who have expressed solidarity with the United States, and asking them to continue to stand with the United States in the war against international terrorism
 4. committing to support more resources to the war on terrorism
 5. supporting the determination of the President, in close consultation with the Congress, to punish the perpetrators of these attacks, as well as their sponsors. (*H.J.Res. 61; S.J.Res. 22*)
- **Resolution of American Solidarity**. The House and Senate passed a resolution expressing the sense of the Congress that as a symbol of solidarity following the terrorist attacks on the United States on September 11, 2001, every United States citizen is encouraged to display the flag of the United States for the next thirty days. The President does not need to sign this type of resolution. (*H.Con.Res 225*)
 - **Remembrance Day**. The House passed a resolution establishing September 11th as a national "Patriot Day." The resolution has been sent to the Senate. (*H.J.Res 71*)
 - **Flags to Victims and Families**. The House passed a resolution providing Capitol-flown flags to each surviving victim and the family of each deceased victim of the terrorist attacks on September 11, 2001. The Senate does not need to pass and the President does not need to sign this type of resolution for it to become effective. (*H.Res. 239*)
 - **"God Bless America"**. The House passed a resolution expressing the sense of the Congress that public schools may display the words "God Bless America" as an expression of support for the nation. The resolution has been sent to the Senate. (*H.Con.Res 248*)
 - **Memorializing Fallen Firefighters**. The President signed into law a resolution ordering that each year the American flags on all federal office buildings will be lowered to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland. (*H.J.Res. 42*)
 - **Sorrow for First Responders**. The House passed a resolution expressing sorrow for the death and injuries suffered by first responders as they endeavored to save innocent people in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon. The resolution has been sent to the Senate. (*H.Con.Res. 233*)
 - **Honoring the Passengers and Crew of United Airlines Flight 93**. The House passed a resolution honoring and expressing thanks to the passengers and crew of hijacked United Airlines Flight 93 who by attempting to overpower the hijackers possibly averted the use of that aircraft in a further terrorist attack on the United States. The resolution also states that a memorial plaque to these victims should be placed on the grounds of the Capitol, and a copy of the wording of the plaque, together with a copy of this resolution from the Congressional Record, should be sent to a designated survivor of each victim. The resolution has been sent to the Senate. (*H.Con.Res. 232*)
 - **Condemning Bigotry**. The House and Senate passed a resolution condemning bigotry and violence against Arab-Americans, American Muslims, and Americans from South Asia in the

wake of the terrorist attacks. The President does not need to sign this type of resolution.
(*H.Con.Res.227*)

- **Public Safety Officer Medal of Valor.** The House passed a resolution expressing the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to the public safety officers who have perished and other public safety officers who deserve special recognition for valor above and beyond the call of duty in the aftermath of the terrorist attacks. The resolution has been sent to the Senate. (*H.Con.Res. 243*)